

Serial No.: 09/376,633  
Group Art Unit: 1645



**REMARKS**

This Amendment is responsive to the Office Action mailed December 18, 2000 (Paper No. 3). Entry of this Amendment and reconsideration of the subject application in view thereof are respectfully requested.

**Claims**

Claims 1-20 were pending. Claims 1-20 stood rejected.

Claims 1-20 have been canceled without prejudice or disclaimer of the subject matter therein. Moreover, Applicants reserve the right to prosecute, in one or more patent applications, the canceled claims, the claims to non-elected inventions, the claims as originally filed, and any other claims supported by the specification.

Claims 21-42 have been added. No new matter is added.

It is believed that entry of this Amendment will not require payment of any additional claim fees. Notwithstanding, Applicants hereby authorize the Commissioner to charge any additional claim fees required by entry of this Amendment to Deposit Account No. 50-0258.

**Support**

Support for the new claims is either apparent or as set forth herein. Specifically, support for the recitation "wherein the nucleic acid sequence detects *Staphylococcus aureus* by hybridization" may be found in the specification at, for example, page 18, line 24 through page 19, line 6. No new matter is added.

**Claim Rejections under 35 U.S.C. § 112, First Paragraph**

Claims 1-20 stood rejected under 35 U.S.C. § 112, first paragraph, for enablement. Without conceding the validity of this rejection, Applicants have elected to present the invention in different terms, which terms obviate the asserted bases for this rejection. Reconsideration and withdrawal of this rejection are respectfully requested.

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**Double Patenting**

Claims 1-20 stood rejected under the judicially created doctrine of obviousness-type double patenting as unpatentable over claims 1-21 of U.S. Patent No. 6,010,881. Without conceding the validity of this rejection, Applicants have elected to submit herewith a terminal disclaimer. Reconsideration and withdrawal of this rejection are respectfully requested.

**FEE DEFICIENCY**

☒ If an extension of time is deemed required for consideration of this paper, please consider this paper to comprise a petition for such an extension of time; The Commissioner is hereby authorized to charge the fee for any such extension to Deposit Account No. 50-0258.

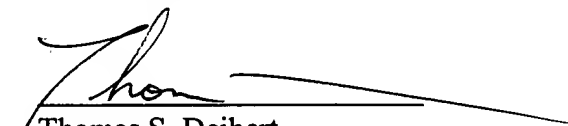
**and/or**

☒ If any additional fee is required for consideration of this paper, please charge Account No. 50-0258.

**Closing Remarks**

Applicants thank the Examiner for the Office Action and believe this response to be a full and complete response to such Office Action. Accordingly, favorable reexamination in view of this response is earnestly solicited.

Respectfully submitted,

  
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**Detail of claim amendments**

- 21. An isolated polynucleotide segment comprising a nucleic acid sequence or the full complement of the entire length of the nucleic acid sequence, wherein the nucleic acid sequence is selected from the group consisting of:
- (a) a polynucleotide comprising SEQ ID NO:1; and,
  - (b) a nucleotide sequence identical to the polynucleotide of (a) except that, over the entire length corresponding to the polynucleotide of (a), up to **thirty** nucleotides are substituted, deleted or inserted for every 100 nucleotides of the polynucleotide of (a);
- wherein the nucleic acid sequence is not genomic DNA and wherein the nucleic acid sequence detects *Staphylococcus aureus* by hybridization.
- 22. A vector comprising the isolated polynucleotide of claim 21.
- 23. An isolated host cell comprising the vector of claim 22.
- 24. The isolated polynucleotide segment of claim 21, wherein the nucleic acid sequence comprises a nucleotide sequence identical to the polynucleotide of (a) except that, over the entire length corresponding to the polynucleotide of (a), up to **ten** nucleotides are substituted, deleted or inserted for every 100 nucleotides of the polynucleotide of (a).
- 25. A vector comprising the isolated polynucleotide segment of claim 24.
- 26. An isolated host cell comprising the vector of claim 25.
- 27. The isolated polynucleotide segment of claim 21, wherein the nucleic acid sequence comprises a nucleotide sequence identical to the polynucleotide of (a) except that, over the entire length corresponding to the polynucleotide of (a), up to **five** nucleotides are substituted, deleted or inserted for every 100 nucleotides of the polynucleotide of (a).

- 28. A vector comprising the isolated polynucleotide segment of claim 27.
- 29. An isolated host cell comprising the vector of claim 28.
- 30. The isolated polynucleotide segment of claim 21, wherein the nucleic acid sequence comprises a nucleotide sequence identical to the polynucleotide of (a) except that, over the entire length corresponding to the polynucleotide of (a), up to **three** nucleotides are substituted, deleted or inserted for every 100 nucleotides of the polynucleotide of (a).
- 31. A vector comprising the isolated polynucleotide segment of claim 30.
- 32. An isolated host cell comprising the vector of claim 31.
- 33. The isolated polynucleotide segment of claim 21, wherein the nucleic acid sequence comprises a nucleotide sequence identical to the polynucleotide of (a) except that, over the entire length corresponding to the polynucleotide of (a), up to **two** nucleotides are substituted, deleted or inserted for every 100 nucleotides of the polynucleotide of (a).
- 34. A vector comprising the isolated polynucleotide segment of claim 33.
- 35. An isolated host cell comprising the vector of claim 34.
- 36. The isolated polynucleotide segment of claim 21, wherein the nucleic acid sequence comprises a nucleotide sequence identical to the polynucleotide of (a) except that, over the entire length corresponding to the polynucleotide of (a), up to **one** nucleotides are substituted, deleted or inserted for every 100 nucleotides of the polynucleotide of (a).
- 37. A vector comprising the isolated polynucleotide segment of claim 36.

- 38. An isolated host cell comprising the vector of claim 37.
- 39. An isolated polynucleotide segment, comprising a nucleic acid sequence or the full complement of the entire length of the nucleic acid sequence, wherein the nucleic acid sequence hybridizes to the full complement of SEQ ID NO:1, wherein the hybridization conditions include incubation at 42°C in a solution comprising: 50% formamide, 5x SSC (150mM NaCl, 15mM trisodium citrate), 50 mM sodium phosphate (pH7.6), 5x Denhardt's solution, 10% dextran sulfate, and 20 micrograms/ml denatured, sheared salmon sperm DNA, followed by washing in 0.1x SSC at 65°C; wherein the nucleic acid sequence comprises a nucleotide sequence identical to SEQ ID NO:1 except that, over the entire length corresponding to SEQ ID NO:1, up to **five** nucleotides are substituted, deleted or inserted for every 100 nucleotides of SEQ ID NO:1; wherein the nucleic acid sequence is not genomic DNA and wherein the nucleic acid sequence detects *Staphylococcus aureus* by hybridization.
- 40. A vector comprising the isolated polynucleotide segment of claim 39.
- 41. An isolated host cell comprising the vector of claim 40.
- 42. The isolated polynucleotide segment of claim 39, wherein the nucleic acid sequence comprises a nucleotide sequence identical to SEQ ID NO:1 except that, over the entire length corresponding to SEQ ID NO:1, up to **three** nucleotides are substituted, deleted or inserted for every 100 nucleotides of SEQ ID NO:1. --